

## HOUSE AMENDMENTS TO HOUSE BILL 4048

By COMMITTEE ON JUDICIARY

February 13

1 On page 1 of the printed bill, line 2, delete “and 656.018”.

2 Delete lines 5 through 30 and delete pages 2 through 4 and insert:

3 “**SECTION 1.** ORS 30.265 is amended to read:

4 “30.265. (1) Subject to the limitations of ORS 30.260 to 30.300, every public body is subject to  
5 civil action for its torts and those of its officers, employees and agents acting within the scope of  
6 their employment or duties, whether arising out of a governmental or proprietary function or while  
7 operating a motor vehicle in a ridesharing arrangement authorized under ORS 276.598.

8 “(2) The sole cause of action for a tort committed by officers, employees or agents of a public  
9 body acting within the scope of their employment or duties and eligible for representation and  
10 indemnification under ORS 30.285 or 30.287 is an action under ORS 30.260 to 30.300. The remedy  
11 provided by ORS 30.260 to 30.300 is exclusive of any other action against any such officer, employee  
12 or agent of a public body whose act or omission within the scope of the officer’s, employee’s or  
13 agent’s employment or duties gives rise to the action. No other form of civil action is permitted.

14 “(3) If an action under ORS 30.260 to 30.300 alleges damages in an amount equal to or less than  
15 the damages allowed under ORS 30.271, 30.272 or 30.273, the sole cause of action for a tort com-  
16 mitted by officers, employees or agents of a public body acting within the scope of their employment  
17 or duties and eligible for representation and indemnification under ORS 30.285 or 30.287 is an action  
18 against the public body. If an action is filed against an officer, employee or agent of a public body,  
19 and the plaintiff alleges damages in an amount equal to or less than the damages allowed under ORS  
20 30.271, 30.272 or 30.273, the court upon motion shall substitute the public body as the defendant.  
21 Substitution of the public body as the defendant does not exempt the public body from making any  
22 report required under ORS 742.400.

23 “(4) If an action under ORS 30.260 to 30.300 alleges damages in an amount greater than the  
24 damages allowed under ORS 30.271, 30.272 or 30.273, the action may be brought and maintained  
25 against an officer, employee or agent of a public body, whether or not the public body is also named  
26 as a defendant. An action brought under this subsection is subject to the limitations on damages  
27 imposed under ORS 30.271, 30.272 or 30.273, and the total combined amount recovered in the action  
28 may not exceed those limitations for a single accident or occurrence without regard to the number  
29 or types of defendants named in the action.

30 “(5) Every public body is immune from liability for any claim for injury to or death of any per-  
31 son or injury to property resulting from an act or omission of an officer, employee or agent of a  
32 public body when such officer, employee or agent is immune from liability.

33 “(6) Every public body and its officers, employees and agents acting within the scope of their  
34 employment or duties, or while operating a motor vehicle in a ridesharing arrangement authorized  
35 under ORS 276.598, are immune from liability for:

1 “(a) Any claim for injury to or death of any person covered by any workers’ compensation law.

2 “(b) Any claim in connection with the assessment and collection of taxes.

3 “(c) Any claim based upon the performance of or the failure to exercise or perform a discre-  
4 tionary function or duty, whether or not the discretion is abused.

5 “(d) Any claim that is limited or barred by the provisions of any other statute, including but not  
6 limited to any statute of ultimate repose.

7 “(e) Any claim arising out of riot, civil commotion or mob action or out of any act or omission  
8 in connection with the prevention of any of the foregoing.

9 “(f) Any claim arising out of an act done or omitted under apparent authority of a law, resol-  
10 ution, rule or regulation that is unconstitutional, invalid or inapplicable except to the extent that  
11 they would have been liable had the law, resolution, rule or regulation been constitutional, valid and  
12 applicable, unless such act was done or omitted in bad faith or with malice.

13 “(7) This section applies to any action of any officer, employee or agent of the state relating to  
14 a nuclear incident, whether or not the officer, employee or agent is acting within the scope of em-  
15 ployment, and provided the nuclear incident is covered by an insurance or indemnity agreement  
16 under 42 U.S.C. 2210.

17 “(8)(a) **Subsection (6)(a) of this section does not apply to a claim for wrongful death if:**

18 “(A) **The death occurred in the course and scope of the decedent’s employment;**

19 “(B) **The death occurred as a result of the conduct of another person that could be**  
20 **charged as a crime; and**

21 “(C) **The decedent was not employed by a public body at the time of death.**

22 “(b) Subsection (6)(c) of this section does not apply to any discretionary act that is found to be  
23 the cause or partial cause of a nuclear incident covered by an insurance or indemnity agreement  
24 under the provisions of 42 U.S.C. 2210, including but not limited to road design and route selection.

25 “**SECTION 2. (1) The amendments to ORS 30.265 by section 1 of this 2014 Act apply only**  
26 **to claims arising on or after May 1, 2012.**

27 “**(2) If the amendments to ORS 30.265 by section 1 of this 2014 Act operate to revive a**  
28 **claim that was barred under ORS 30.265 (6)(a) immediately before the effective date of this**  
29 **2014 Act, the person asserting the claim must give notice of the claim as provided in ORS**  
30 **30.275 within one year after the effective date of this 2014 Act.**

31 “**SECTION 3. This 2014 Act being necessary for the immediate preservation of the public**  
32 **peace, health and safety, an emergency is declared to exist, and this 2014 Act takes effect**  
33 **on its passage.”.**

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